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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,053	03/24/2004	Stephen E. Bentschneider	LAB-106-B	4200

7590 08/07/2006

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EXAMINER

CHEN, JOSE V

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 08/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/808,053

Applicant(s)

BENTSCHNEIDER, STEPHEN E.

Examiner

José V. Chen

Art Unit

3637

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 03/24/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if applicant intended to claim a combination including a base and machine since a base is claimed with specific interconnection with a machine such machine not being positively claimed making the metes and bounds of the claims unclear and confusing to a potential infringer. Clarification and correction are required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 9, 10, so far as defined, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardinge in view of Hughes. The patent to Hardinge teaches structure substantially as claimed including table, means for securing (at 6) including mounting plates the only difference being that there is no means for adjusting position. However, the patent to Hughes (at 24) teaches the use of providing adjusting structure for a work surface to provide mobility to be old. It would have been obvious at the time

of the invention to modify the structure of Hardinge to include a means for adjusting position, as taught by Hughes since such structures are conventional alternative support structures used in the same intended purpose, thereby providing structure as claimed.

Claims 3, 6, 7, 8, 11, 12, 14, 15, 16, 17, 19, 20, 21, so far as defined, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardinge in view of Hughes as applied to the claims above, and further in view of Doyle. The patent to Hardinge in view of Hughes teaches structure substantially as claimed as discussed above including a plurality of legs, the only difference being that the legs are not telescopingly adjustable with control means. However, the patent to Doyle teaches the use of providing telescopingly adjustable leg structures with control means to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Hardinge in view of Hughes to include vertically adjustable legs and control means, as taught by Doyle since such structures are conventional alternative supporting structures used in the same intended purpose thereby providing structure as claimed, so far as defined. The use of pneumatic adjusting structures and control means is conventional structure commercially available. To use such structures as an alternative structure used in the same intended purpose of providing an adjustment would have been obvious and well within the level of ordinary skill in the art, thereby providing structure as claimed., so far as defined.

Claims 5, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hardinge in view of Hughes as applied to the claims above, and further in view of

Art Unit: 3637

Ostertag et al. The patent to Hardinge in view of Hughes teaches structure substantially as claimed as discussed above including a table, the only difference being that there is no lighting fixture to provide light for the work area. However, the patent to Ostertag et al teaches the use of providing a lighting fixture for a work surface to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Hardinge in view of Hughes to include a lighting fixture, as taught by Ostertag et al since such structure is used in the same intended prose of providing light for structures placed thereon, thereby providing structure as claimed, so far as defined.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hardinge in view of Hughes and Doyle as applied to the claims above, and further in view of Ostertag et al. The patent to Hardinge in view of Hughes and Doyle teaches structure substantially as claimed as discussed above including a table, the only difference being that there is no lighting fixture to provide light for the work area. However, the patent to Ostertag et al teaches the use of providing a lighting fixture for a work surface to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Hardinge in view of Hughes to include a lighting fixture, as taught by Ostertag et al since such structure is used in the same intended prose of providing light for structures placed thereon, thereby providing structure as claimed, so far as defined.

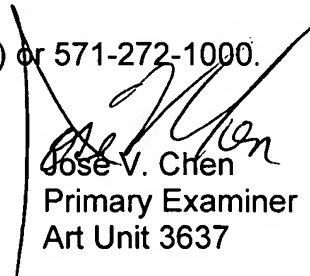
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Myers, Bobren et al, Groshong, McMahon, Wiederrich et al teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jose V. Chen  
Primary Examiner  
Art Unit 3637

Chen/jvc

Application/Control Number: 10/808,053

Page 6

Art Unit: 3637

08-02-06